

**In the United States District Court
For the Southern District Of Georgia
Waycross Division**

KENNETH DWIGHT JACOBS,

Petitioner,

v.

HOMER BRYSON; WARDEN HILTON
HALL; and STATE OF GEORGIA,

Respondent.

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CIVIL ACTION NO.: 5:15-cv-50

ORDER

After an independent and *de novo* review of the record, the undersigned concurs with the Magistrate Judge's May 24, 2016, Report and Recommendation, dkt. no. 12, to which objections have been filed. A review of Petitioner Kenneth Dwight Jacobs' ("Jacobs") Objections fails to reveal that the one-year statute of limitations period applicable to his federal habeas petition should be tolled. While Jacobs avers that the Court should equitably toll the statute of limitations period due to his appellate counsel's failure to inform him of that procedural rule, "[n]egligence on the part of a prisoner's postconviction attorney does not qualify as 'cause'" for excusing a procedural default relating to a filing deadline. Maples v. Thomas, 132 S. Ct. 912, 922 (2012).

Accordingly, the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED** as the opinion of the Court, and Plaintiff's Objections, dkt no. 13, are **OVERRULED**. The Court **DISMISSES**, without prejudice, Jacobs' Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254. The Court also **DENIES** Jacobs leave to appeal *in forma pauperis* and a certificate of appealability.¹ The Clerk of Court is **DIRECTED** to enter the appropriate judgment of dismissal and to **CLOSE** this case.

SO ORDERED, this 17 day of June, 2016.

LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ On June 6, 2016, Jacobs filed a motion for a Certificate of Appealability, dkt. no. 14, and a Motion for Leave to Appeal *in forma pauperis*, dkt. no. 15, prior to the entry of this Order. For the reasons stated in the Magistrate Judge's Report and Recommendation, Jacobs' motions are **DENIED**.